

summer of 1989 (MMB Ex. 6, p. 3). According to Mrs. Freeman, neither filter did any good. Mrs. Freeman filed an informal objection with the FCC in December 1989 and a questionnaire in March 1991 but the station has not made any further attempts to help her. Mrs. Freeman now has a booster amplifier on one of her two sets (Tr. 970).

50. Mrs. Stewart first called the Ellis' on April 7, 1989 and from their directions to their home believed that the home was six to eight miles from the KOKS tower site, and well outside of the KOKS blanketing contour. The Ellis' called to complain of interference to channel 6. Because Mrs. Stewart thought they were outside the blanketing contour and only had interference to channel 6, Mrs. Stewart told the Ellis' about the 75 ohm trap with which they had some success in other homes. Mrs. Stewart later learned, when she found the Ellis' on Appendix A of the Commission's October 30, 1990 Order (Ex. 21), that she was mistaken and the Ellis' were within the station's blanketing contour (Tr. 546). Mr. Lampe and Mrs. Stewart visited the Ellis home in February of 1991. Mr. Lampe installed two filters, one on the VCR and one on the TV (Ex. 3, p. 24). Mrs. Stewart and Mr. Lampe testified that the filters improved reception on all channels (Ex. 3, p. 24; Ex. 1, p. 20). Mr. Lampe also fixed their satellite. No mention was made of any other TV than the one Mr. Lampe fixed. Mr. Lampe observed no FM blanketing interference on the Ellis' set (Ex. 1, p. 13).

51. The Ellis were long time friends and customers of Mr. Lampe, and he made a service call to the Ellis' later in 1991.

Their set was receiving interference but the interference was removed when his booster was disconnected (Ex. 1, p. 14). The interference on the Ellis' set was not the result of FM blanketing interference, but of poor signals and trying to run two sets off the same booster. Mr. Lampe replaced the booster and reception on all channels was fine. Mr. Lampe testified that he repaired the Ellis' TV prior to the time KOKS went on the air and recalls that reception on all channels was snowy, which was why he recommended that the Ellis' install a booster (Tr. 291). Reception of channels 8, 12 and 15 was basically the same after KOKS came on the air, and channel 6 had some interference on it (Tr. 292).

52. Mrs. Stewart testified that Mrs. Marie Christian lives within the KOKS blanketing contour, and first called the station complaining of interference to her channel 6 reception within a few weeks after the station went on the air (Ex. 3, p. 24). When Mrs. Christian first called Mrs. Stewart she was told that she had a booster and a preamplifier, as well as a tall tower. Mrs. Stewart called Mrs. Christian on January 2, 1989 and told her that the 75 ohm filter might help her problem. Mrs. Christian called about once a week for the next four to six months to complain about interference to channel 6. Mrs. Christian's complaints dealt only with channel 6, which Mrs. Stewart believed was exempt, and Mrs. Christian also had both a booster and a preamplifier, which also made her exempt. Mr. Lampe, Mr. Stewart and Mrs. Stewart visited the Christian home in February 1991. At that time Mrs. Christian still had a booster, a preamplifier, and a tall tower. Mr. Lampe

installed a filter on her TV set which improved her reception. Mrs. Stewart testified that Mrs. Christian agreed that channels 6, 12 and 15 were all coming in fine and that there was no KOKS audio on channel 6. Mrs. Stewart also told Mr. Lampe that she was remodeling and that she was going to move her television sets around, and put them all on one line from the booster (Ex. 3, p. 24; Ex. 2, p. 14). Mr. Lampe showed her the best way to wire the TV sets together running a line from the booster (Ex. 3, p. 25; Ex. 2, p. 14). He also showed her how one filter would take care of all her TV sets by installing the filter before the splitter. Mrs. Christian asked for two more filters for her TV sets, but she was not given them (Ex. 3, p. 25). Mr. Lampe testified that Mr. Stewart told her that the station would only fix one set (Ex. 2, p. 14). Mrs. Stewart testified that the station wasn't sure that they had enough filters for everyone and Mrs. Christian had just told us how she was going to run all the sets off one wire and Mr. Lampe had shown her how the placement of one filter would work (Ex. 3, p. 24).

53. Mrs. Christian called Mrs. Stewart about three days after our visit to complain that the filter wasn't working and that neither channel 6 nor channel 12 was coming in very well. Mrs. Stewart asked her if she heard any KOKS audio on channel 6, and Mrs. Christian replied that she didn't know and that she didn't think that the station was very concerned about restoring her TV reception. Mrs. Stewart replied that the station was trying to cure the problem and that Mrs. Stewart would tell Mr. Lampe about

it. Mrs. Stewart was unsuccessful in reaching Mr. Lampe and called Mrs. Christian back and asked if they could come over and get the filter to have it tested since they were guaranteed to work. Mrs. Christian said that she didn't want a return visit.

54. Both Garrisons sent in petition complaints. Because of the number of complaints Mrs. Stewart didn't realize that the Garrisons were part of the same family. When Mrs. Stewart spoke to Willard Garrison on January 3, 1989, he complained of interference to channel 6 (Ex. 3, p. 26). Because the complaint was solely about channel 6 which Mrs. Stewart didn't believe the station was responsible for curing, Mrs. Stewart told Mr. Garrison about the 75 ohm channel master filter which might help. The next day Mrs. Stewart called the same house and spoke to Aileen Garrison, who said that she was having problems primarily with channel 6 but also with channel 15. Mrs. Stewart made an appointment to come to the Garrison's home between 12 and 1 the next day, but when Mrs. Stewart arrived at 12:20 no one came to the door and neither Garrison ever called back. The Stewarts and Mr. Lampe visited the Garrison home on February 6, 1991. Mrs. Stewart testified that Mr. Garrison's reception was pretty good when they arrived, but he was complaining so Mr. Lampe installed two filters on his TV set. The picture improved, and all channels, including channel 6, were coming in well, and there was no audio from KOKS (Ex. 3, p. 24). Mr. Lampe testified that Mr. Garrison's reception improved noticeably when the filters were installed, and that the snow observed on channel 6 was not the result of FM blanketing

interference (Ex. 1, p. 14). Even though it was clear to Mr. Lampe and Mrs. Stewart that the picture improved with the filters, Mr. Garrison kept saying that the reception was worse, which was clearly not true, and that the filters were messing up his TV. Mr. Garrison accused Mr. Lampe of not knowing what he was doing and, according to Mrs. Stewart and Mr. Lampe, was rude, abusive and threatened to sue. Because he kept claiming the filters made things worse Mr. Stewart asked Mr. Lampe to remove the filters and leave the set just as it was when they arrived.

55. Mr. Crutchfield lives within KOKS blanketing contour, and made a complaint in December 1988. Mr. Stewart first went to Mr. Crutchfield's home in December 1988 to see if he could install a string filter to improve reception (Ex. 3, p. 27). The filter did not improve the reception and Mr. Stewart saw that Mr. Crutchfield had both a booster and preamplifier. Mr. Crutchfield told Mr. Stewart that KOKS was devaluing his property and that he would file a lawsuit. Mrs. Stewart first spoke to Mr. Crutchfield on December 30, 1988, who told her that he had a booster and an amplifier. Mrs. Stewart tried to tell him of the channel master filter that might help his reception, but Mr. Crutchfield threatened to sue. Mrs. Stewart told him of the filter. Mr. Crutchfield later dropped by the KOKS studio where he again threatened to sue the station. Mrs. Stewart later called to tell him of the availability of the 75 ohm filters, but Mr. Crutchfield wasn't interested.

56. The Stewarts and Mr. Lampe visited Mr. Crutchfield's home again in February 1991. Once again, he had both a booster and a

preamplifier and was running both his TV sets from the booster. Mr. Lampe installed a filter before the splitter to take care of both sets. Mr. Crutchfield's reception wasn't very good, although channels 12 and 23 were coming in well. There were ghost shadows on some other channels, like channel 15. Channel 6 was not coming in well even though no KOKS audio was heard on the channel. The poor reception that Mr. Lampe observed was not the result of FM blanketing interference, but were caused by poor reception of the signal (Ex. 1, p. 15). Mr. Crutchfield asked Mr. Lampe how he could get channel 6 better, and Mr. Lampe told him that he would have to get a special antenna cut only for channel 6 (Ex. 3, p. 28). Mr. Lampe never mentioned a price for such an antenna, he just told him to get a different sort of antenna (Ex. 2, p. 12).

57. Mrs. Stewart last spoke to Mrs. Sandra Durbin in February 1989. Mrs. Durbin lives in the Hillis trailer court right across the road from the highway patrol and Mrs. Stewart went to her house and installed a filter on her TV set (Ex. 3, p. 28). Mrs. Durbin's testimony noted that before KOKS went on the air she could receive channels 8, 12, and 15 without interference and with a good picture (MMB Ex. 5, p. 2). Channel 6 was not as clear, but received no interference. After KOKS came on the air Mrs. Durbin lost all video and audio on channel 6, and got very poor reception on channel 8. Mrs. Durbin also could no longer pick up a Jonesboro FM station, although there was no other affect on radio reception (MMB Ex. 5, p. 3). After the installation of filters Mrs. Stewart testified that the reception improved a great deal (Ex. 3. p. 28),

and Mrs. Durbin seemed pleased with the improvement although the filter did not bring in channel 6 well. Mrs. Durbin agreed that channels 12 and 15 improved greatly, and she told Mrs. Stewart as much, but there was not much effect on channels 6 or 8. Mrs. Stewart also testified that Mrs. Durbin did not mention to her that she was receiving interference on any radios, nor ask Mrs. Stewart to look at any radios. Mrs. Durbin noted that she did not think that Mrs. Stewart knew of any other TV set in the house, and that there was no discussion of her radios (MMB Ex. 5, p. 3). Mrs. Durbin did say that she often had problems with interference from the highway patrol, especially when they keyed their mikes. When the highway patrol radios were transmitting she would often have black and white lines across her TV. Mrs. Durbin noted that after two weeks the filter seemed to make reception worse and that she called Mrs. Stewart to report this, but that all Mrs. Stewart said is that she could not understand why the filter was no longer working (MMB Ex. 5, p. 3-4). No further assistance was offered by the station, and Mrs. Durbin paid \$40.00 for a larger antenna and cable. Mrs. Stewart testified that she believed that Mrs. Durbin was satisfied when she reported that to the FCC (Tr. 553), but that she received and reviewed complaints which Mrs. Durbin filed at the FCC after Mrs. Stewart had reported to the FCC that Mrs. Durbin's complaint had been resolved (Tr. 553, 556). Mrs. Stewart testified that she didn't inform the FCC that the complaint hadn't been resolved (Tr. 553, 557), but that "[i]t had been a hard year in '89, and some of these I just missed picking up" (Tr. 554).

58. Mrs. Stewart spoke with Mrs. Kearby in February 1989 and Mrs. Kearby reported that she was having trouble with the reception of channels 6 and 12, and Mrs. Stewart visited their home a few days later and installed a filter on their TV. The filter improved the reception so that channel 12 came in well, and channel 6 came in, but not so good. Mrs. Stewart testified that the Kearbys seemed satisfied with the improved reception provided by the filter. When Mrs. Stewart reported to the FCC that their complaint was cured, she meant that they could receive all their local channels, except channel 6 which Mrs. Stewart did not believe the station had an obligation to cure (Ex. 3, p. 28). However, when Mr. Moffit was inspecting the station in December 1989 he called Mrs. Stewart and asked that she call the Kearby home. She did and asked Mr. Kearby if they wanted another home visit. Mr. Kearby told Mrs. Stewart that they did not want another home visit so she told him to drop by the station to pick up a filter. Mrs. Stewart didn't know if they did, but she never heard from the Kearbys again, and believed that the Kearbys were satisfied with the first visit. Mr. Kearby didn't seem to indicate to Mrs. Stewart that there were any real problems during their conversation; he declined a home visit, and seemed, to Mrs. Stewart, happy enough to pick up a filter at the station.

59. Mr. Dairel Denton lives within the blanketing contour of KOKS and before KOKS went on the air he received channels 6, 8, 12, 15 and 23 on all three of his television sets (MMB Ex. 4, p. 2). One large set was connected to a booster. When KOKS went on the

air Mr. Denton could no longer receive any channel except channel 15. He testified that he still receives interference on channel 15. After complaining to the station an "engineer," who Mrs. Stewart testified was Mr. Abernathy (Tr. 422), came to his home and tried to install a filter that did not work (MMB Ex. 4, p. 3). Mr. Denton often called the station to complain late at night, and after some difficulty trying to reach Mr. Denton Mrs. Stewart reached him and discovered that he had both a booster and a preamplifier (Tr. 425). Mr. Denton does not recall telling the station that he had more than one television set (Tr. 1042). Mrs. Stewart told him of a filter that might work and how to install the filter before the booster, and told him to come down to the station to pick the filter up, which he did (Tr. 1041). Mrs. Stewart subsequently called to ask how the filter helped. In February 1991 KOKS called to make an appointment to come to his home, and when Mr. Denton mentioned how busy he was they told him they had an FCC deadline to meet (Tr. 1043). He couldn't make the appointment and wasn't there when the KOKS people arrived, although his wife was home (Tr. 1045). Although the KOKS representatives wanted to go ahead, his wife called him and he told her that they would have to come back another time. Mr. Denton wanted to be there, even though his wife was home, and Mrs. Denton wouldn't let them in the house (Tr. 1046, 1048). The KOKS people thought Mrs. Denton was a babysitter who denied them admittance to the house, and that Mr. Denton had an amplifier on his antenna (MMB Ex. 27, p. 81). Mrs. Stewart wrote a letter to Mr. Denton giving him technical

assistance because they thought he had an amplifier or booster on his antenna. Mr. Denton did not respond because he now has a satellite (Tr. 1048).

60. Michael O. Beckham operates the Whispering Oaks Boarding Home which is less than a mile from the KOKS antenna site (MMB Ex. 9, p. 2). There are two floors in the home and 15 residents, and the home has two television sets hooked up to antennas. Mr. Beckham testified that before KOKS came on the air all TV sets had good reception of channels 6, 12 and 15. In February of 1989 Mrs. Stewart went to the Beckham home, and found it had both a booster and a preamplifier (Tr. 1070-1071) and then went to the Boarding Home. Mr. Beckham did not accompany Mrs. Stewart (Tr. 1072). Mrs. Stewart testified that she was told by the woman who was at the home that the TV in the room where it was watched by the residents was an older TV and only got channel 15, and that Mr. Beckham said he was going to replace the set (Tr. 1071). Mrs. Stewart put a filter on it anyway (Tr. 1072). Mrs. Stewart put a filter on another set downstairs which seemed to help, and put a filter on a small portable set in a resident's room (Tr. 1072). Mr. Beckham testified that he didn't know what Mrs. Stewart did, but it didn't seem to help (MMB Ex. 9, p. 3). When KOKS went on the air 24 hours a day he paid Glenn Phillips to install a booster on the television set upstairs which cost him \$100. The Stewarts and Mr. Lampe came to the Boarding Home again in February of 1991 and installed a notch filter on the set downstairs (Tr. 1077). Mr. Beckham testified that the filter improved reception on channel 12, but did

nothing for channel 6 (Tr. 955). Mr. Beckham testified that Calvary's report on his television reception noted in MMB Ex. 26, p. 57 was inaccurate in that channel 6 was not coming in at all (Tr. 956). Mrs. Stewart testified that Mr. Beckham said he was going to replace the upstairs set and asked for a filter. Mrs. Stewart said no because they wanted to come back and install the filter themselves. Mr. Beckham testified that he informed Mr. Stewart of a second set upstairs and that Mr. Stewart refused to look at it because he stated that Calvary was only responsible for fixing one set, but he did offer to sell Mr. Beckham a filter for \$50 (MMB Ex. 9, p. 3-4). Mrs. Stewart testified that she didn't hear any discussion of any sale of filters (Tr. 1078).

61. All of Calvary's submissions to the FCC were filed over Mrs. Stewart's name after she reviewed the material, or were prepared by Mrs. Stewart personally (Ex. 3, p. 290). Mrs. Stewart testified that there might have been errors or misunderstandings, when she believed a complainant was satisfied when they were not, but Mrs. Stewart was also dealing with almost a thousand complaints. Mrs. Stewart also made mistakes in determining who might be within and without the blanketing contour, such as the Ellis'. Calvary also did not consult legal counsel with respect to some of its submissions to the FCC, including its response to the Commission's October 30, 1990 letter. However, neither Mrs. Stewart nor anyone at KOKS ever knowingly misrepresented something to the Commission.

62. Mrs. Stewart was also at the station when Mr. Ramage and another FCC employee, Mr. Gusick, inspected the station in February 1992 and testified that Mr. Ramage asked her to show him the public affairs file (Ex. 3, p. 29). Mrs. Stewart pulled out the file which included the issues/programs lists and placed it, closed, on the desk in front of Mr. Ramage (Ex. 3, p. 30). There were a few sheets of announcements from the local social security office sticking out of the back of the file. Mrs. Stewart believes she meant to include mention of those programs the next time she prepared KOKS' issues/programs list. Mrs. Stewart testified that Mr. Ramage did not open the file but he saw the announcements sticking out and said that "that's wrong, that's a public service announcement." Mr. Ramage, according to Mrs. Stewart, never looked in the file which flustered and disturbed her. Mrs. Stewart testified that she had been putting the issues/programs list in the file on the tenth day of the next month after each quarter, just as Mr. Poole had told her to do following the inspection. Mrs. Stewart then pulled out one of the issues/programs list in the file and asked Mr. Ramage if there was anything wrong with it. After he looked at the list he said that Mrs. Stewart hadn't put the date the list was placed in the public file on the list. Mr. Ramage does not recall making such a statement (Tr. 805). Mr. Poole never told Mrs. Stewart that was necessary, only that the list was supposed to be in the file by a particular date. Mrs. Stewart testified that the lists were in the file then, and Mr. Ramage just didn't open the file to look (Ex. 3, p. 30; Tr. 1086-1087). The

programs/problems lists submitted as Exhibit 13, pages 1-24, were in the file when Mr. Ramage was at the station (Tr. 1087). The reason that the date the list was placed in the public file, noted for the first quarter 1992 (Ex. 13, p. 25), was in response to Mr. Ramage (Tr. 1062).

63. Mr. Ramage also asked Mrs. Stewart for a list of the station's donors for particular programs (Ex. 3, p. 30). Mrs. Stewart testified that she must have been flustered and confused at this point, because she thought that he had asked for a list of all station donors. When Mrs. Stewart repeated his question he said that he didn't want a list of all donors, only those supporting particular programs. Mrs. Stewart told him the station doesn't have such a list. The station does not keep such a list, but it does keep a list of donors in the station's public file which names our general donors as well as the list of donors for particular programs. Mrs. Stewart testified that this list had been in our file, updated as needed, since Mr. Poole's visit in 1989, when Mrs. Stewart was told about the rule requiring it. Mrs. Raines looked at the station's list of donors during her visit to the station in 1989. The list was in the station file, and Mrs. Stewart was mistaken when she told Mr. Ramage that the station didn't have a list of donors for specific programs in the file. The station did have such a list (Ex. 3, p. 31; Tr. 1081; Ex. 12). Ramage did not look at the file (Ex. 3, p. 31; Tr. 1082), and Mrs. Stewart was too flustered to answer his question correctly. Mr. Ramage also asked to see the file with requests from political candidates. Mrs.

Stewart told him that the station didn't have one. When Mr. Ramage visited the station, KOKS had never received a request from a political candidate for any sort of time. Mr. Ramage has a specific recollection that Mrs. Stewart told him that the station had had requests for political time (Tr. 807), although he did find it odd that the station had programs/problems lists, lists of donors, and a political file when the station was inspected in 1989 and not in 1992 (Tr. 809).

64. Mr. Lampe was also at KOKS when the station was inspected by Mr. Ramage in February of 1992 (Ex. 1, p. 15). Ramage mentioned to him that the plate current reading was low, and if the reading were correct the station was operating at 64 percent of authorized power. At the studio, meters showed the readings of the plate voltage, plate current, and the percentage of authorized power the transmitter was providing (Ex. 1, p. 16). Mr. Lampe checks the transmitter reading at the transmitter site, and always checks the percentage of transmitter power output. When Mr. Lampe checked, the percentage of transmitter output power showed the transmitter always operated within legal limits. While Mr. Ramage was there Mr. Lampe told Mr. Ramage that there was a warning in the Harris transmitter manual that the plate current meter reading could be incorrect if there was damage to the system by, say, a lightning strike, as there had been many at KOKS. Mr. Lampe testified that he showed the page in the transmitter manual to Mr. Ramage, and called the transmitter manufacturer while Mr. Gusick was there, and Mr. Gusick confirmed that the plate current meter reading might be

lower if the system had been hit by lightning. After Mr. Ramage left, the diode in the transmitter was replaced and the meter reading returned to normal. The meter was broken, as the manual indicated was possible, and, to Mr. Lampe's knowledge, the station hadn't run under authorized power. KOKS submitted this explanation to the FCC, See Ex. 1, Att. B, and Mr. Ramage described the station's response as "satisfactory" (Tr. 713).

65. Mr. Ramage, in addition to inspecting the station, also conducted a field investigation of the KOKS blanketing interference, and submitted a report (MMB Ex. 1), of which he was the author (Tr. 677). Another FCC employee who accompanied him, a Mr. Gusick, was a trainee who had no part in preparing the report (Tr. 677). In his report Mr. Ramage noted that using the indirect method of power calculation using the plate voltage and plate current reading showed that the KOKS transmitter was operating at 22.5 kW or 64 percent of authorized power (MMB Ex. 1, p. 6). The meter reading for the percentage of transmitter power output was 95.1 percent. Mr. Ramage testified that this reading was always within legal limits (Tr. 704), and that the engineer called the transmitter manufacturer who told him that there was a problem with "current metering" (Tr. 708).

66. Mr. Ramage also noted that the station was operating with a seven-bay antenna rather than the four-bay antenna authorized (MMB Ex. 1, p. 7), and that this was not in compliance with the station's license (MMB Ex. 1, p. 8). The Mass Media Bureau has subsequently stipulated that the change from a four-bay antenna to

a seven-bay antenna was consistent with section 73.1690(b) and 73.1690(c) of the Commission's rules (Stipulation filed September 18, 1992). Mr. Ramage also pointed out that the tower lights were not placed in accordance with the Station's authorization (MMB Ex. 1, p. 7) and that this was not in accordance with the station's license (MMB Ex. 1, p. 8). The Mass Media Bureau has also stipulated that the placement of Calvary's lights on the tower "... does not constitute a violation of the Commission's Rules and does not evidence ineptness in the operation of KOKS(FM)" (Tr. 144). Mr. Ramage was shown KOKS' response to the question of operating power, which was attachment B to Mr. Lampe's testimony, and testified that KOKS' response was "satisfactory explanation of meter readings" (Tr. 713).

67. Mr. Ramage also reported that the station did not have the "required issues programs lists, requests from political candidates, or list of donors supporting the stations (sic) programming" (MMB Ex. 1, p. 7), and quotes Mrs. Stewart as saying that their attorney told them that they were required to only keep requests from candidates seeking national office and that they had only received a few requests from local candidates (MMB Ex. 1, p. 7-8). Mr. Ramage also noted that the station didn't have a proof of performance for the seven-bay antenna (MMB Ex. 1, p. 13).

68. As part of his investigation Mr. Ramage visited the home of 14 separate residents with the purpose of determining what KOKS had done to restore reception (MMB Ex. 1, p. 9). The list of homes to visit was compiled by the Mass Media Bureau (Tr. 683) and Mr.

Ramage does not know how the list was compiled (Tr. 684). Mr. Ramage characterized Calvary's attempts to restore reception as "token" and that "no attempts were made to address portable television receivers or radios" (MMB Ex. 1, p. 9). Mr. Ramage reported that Mr. Stewart told him that the station "could not afford to install more than one filter per residence" and that a portable set was a mobile receiver. Mr. Ramage's report does not mention discussing Calvary's attempts with Mrs. Stewart, who visited all of the homes at issue, or with Mr. Lampe, nor does the report mention any attempt to ask either Mrs. Stewart or Mr. Stewart concerning their recollections of what was done in specific homes.

69. Mr. Ramage noted that it was now impossible to determine the quality of reception that the complainants received prior to KOKS going on the air because of the elapse of time, the various new TV and radio stations on the air, and changes in the complainants' receiving equipment (MMB Ex. 1, p. 9). Ramage also noted that the complainants were attempting to receive stations that were 68-86 miles distant and separated by 174 degrees, resulting in a very low signal reaching the TV receiver to begin with. WPSD-TV, Paducah is 86 miles distance from the KOKS tower on a bearing of 68 degrees; KAIT-TV is 69 miles distant on a bearing of 199 degrees; and, KFVS-TV is 68 miles distant on a bearing of 47 degrees (MMB Ex. 1, p. 58). Ramage reported that the installation of filters, coax cable and other equipment leads to a loss in the signal reaching the set (Tr. 872), so that all complainants told

him that they received better reception prior to KOKS going on the air than they now receive when KOKS stopped transmissions. Ramage also reported that many of the complainants indicated that the KOKS filters quit working after a few weeks (MMB Ex. 1, p. 10). Mr. Ramage theorized that the filters might have quit working either because the filters were detuned because of the heating or cooling of the filter, or because the station raised power. While Ramage reported that the filter manufacturer could not disprove his theory (MMB Ex. 1, p. 10), it was not common in his experience for filters to fail (Tr. 849), and the filters that he knew of which did fail were tunable filters, not filters like those used here (Tr. 847). Mr. Lampe has used filters extensively in his TV repair work over the years, and a filter has seldom failed if shielded from the elements (Tr. 323), and the only time he has replaced filters is when they have been struck by lightning or when the filter has been misinstalled (Tr. 324). Mr. Lampe has never replaced a filter because of a manufacturer's defect (Tr. 330). Mr. Ramage also found it unreasonable to assume that the station would increase power for the purpose of making the filters fail (MMB Ex. 1, p. 11).

70. Ramage's report also discussed what he called "frustrations" (MMB Ex. 1, p. 12). He reported that the complainants were not convinced that KOKS had gone off the air for testing, and asked him to check what the station was doing at the transmitter site. Ramage found that the station was taking its antenna out of the shed to be shipped to the manufacturer. Ramage

also reported that some complainants were disappointed when their reception did not clear up when KOKS went off the air (MMB Ex. 1, p. 12). Mr. Ramage identified Mrs. Smith and Mrs. Hillis as among those disappointed when there was not much change when KOKS went off the air (Tr. 865).

71. Mr. Ramage's report included reports on each visit, using observations of the picture received on each set using the TASO system. The TASO system is a system adopted in the early '50's which labels picture quality (Tr. 811). There is no standard for a TASO picture quality, and the result is somewhat subjective (Tr. 811, 813-14). Mr. Ramage reviewed a tape produced by the FCC's training center in Norfolk, Virginia before he came to Poplar Bluff which showed what a different level TASO signal looked like (Tr. 811), but he does not believe that Mr. Poole did before his visit to Poplar Bluff (Tr. 812). Mr. Ramage also testified that the difference between one TASO reading and the one right below or above it was not very significant (Tr. 863).

72. Mr. Ramage has a degree in Electrical Engineering (Tr. 819) and came to work at the FCC in 1983. As part of his training he attended the FCC school in Norfolk, Virginia for three months (Tr. 819). At no time during his academic training was the phenomenon of FM blanketing mentioned (Tr. 819), nor was the subject of FM blanketing mentioned in any of his FCC training (Tr. 820). Mr. Ramage had not reviewed any TV repair manuals, magazine articles, or professional publications which described FM blanketing interference, nor does Mr. Ramage have any personal or

professional experience in radio or television repair (Tr. 820). Mr. Ramage's experience with interference to TV receivers was, prior to his visit to Poplar Bluff, limited to interference caused by two-way radio and land mobile receivers (Tr. 823-24). His one experience concerning FM blanketing interference concerned blanketing interference to another FM radio station in Humbolt, Iowa (Tr. 786, 821-22). The first time that Mr. Ramage ever saw FM blanketing interference reflected on a TV set was in Poplar Bluff (Tr. 822). Mr. Ramage did have a great deal of experience with two-way radio interference (Tr. 828) which he described as another sort of overload interference--interference that simply overloads the receiver--like blanketing interference. Mr. Ramage testified that this "overload" interference had a distinctive visual image on a television screen (Tr. 829-30) which was manifested either as a complete blank of the screen (Tr. 829) or a distinctive herringbone pattern of lines across the television set (Tr. 829-30). The only difference between overload interference caused by a two-way radio and FM blanketing experience was that interference caused by a two-way radio receiver is intermittent and FM blanketing is not (Tr. 833). Likewise, Mr. Ramage agreed that what he described as "ghosting" on a TV set is not the result of FM blanketing interference, and what is usually described as "snow" is not the result of FM blanketing interference but a weak signal (Tr. 828). In fact, Mr. Ramage testified that neither at the Smith (Tr. 868) nor Hillis residence (Tr. 868), nor, for that matter, at any house he visited, did he see the distinctive herringbone pattern on the

television set that is indicative of overload interference such as FM blanketing (Tr. 871), except for those instances of interference which, because of their intermittent nature, were clearly two-way radio interference from the highway patrol (Tr. 833, 858). The instances of two-way radio interference that he observed included the Diel home, the Wynn home, and the Piper home were not mentioned in his report (Tr. 858). Mr. Ramage also testified that in an instance of a very weak signal blanketing interference would be just snow and indistinguishable from other interference (Tr. 894). When blanketing interference would be indistinguishable from other interference, however, the picture would have to be very poor (Tr. 896), in the range of a TASO 4 to TASO 6 picture (Tr. 896). Mr. Ramage described a TASO 4 as "... has quite a bit of interference in the background"; a TASO 5 as "... severe interference but you can still see a picture"; and a TASO 6 is no picture at all (Tr. 812). Since the TASO scale is so subjective, only TASO 6, which is no picture at all, is considered unwatchable (Tr. 814). When Mr. Ramage made statements in his report that KOKS had failed to restore reception he was relying primarily on the statements of the complainants themselves, as well as the change in reception when KOKS went off the air (Tr. 862). The conclusion was essentially a recap of what the complainants told him. Mr. Ramage concluded, in this recommendations, that at the "official construction and testing of the new antenna" the station took out an advertisement in the local newspaper which notifies the public of a new one-year

interference resolution period, and which provides the public with a point of contact for registering a complaint (MMB Ex. 1, p. 14).

73. In his report of his visit to the Smith home Mr. Ramage noted that KOKS failed to restore reception based primarily on the reports of Mrs. Smith (Tr. 862), because the difference between Mrs. Smith's reception with KOKS on and off the air was not significant, a fact that "disappointed" Mrs. Smith (865). In fact, Mr. Ramage reported that Mrs. Smith wouldn't believe that KOKS was off the air even with a spectrum analyzer because the red light on her stereo remained lit (MMB Ex. 1, p. 29). Mr. Ramage's report noted that only one TV set, a portable, showed a "fairly slight improvement" when KOKS was not transmitting (Tr. 865). The improvement noted was a change from a TASO 6 to a TASO 5-6 on channel 8, and a change from a TASO 4 to a TASO 3 on channel 12. Mr. Moffit told Mr. Ramage that the Smith TV set, the Magnavox, had a bad tuner and that the tuner was intermittent, meaning that the tuner was dirty and one time you could tune in a station, make contact and get a picture, and the next time get no picture at all (Tr. 816). Mr. Ramage noted KOKS audio in all sets at the Smith residence, and at the Hillis' (Tr. 882), but at none of the other homes he visited (Tr. 877, 879).

74. Likewise, at the Hillis residence Mr. Ramage noted only a very slight difference between TV reception with KOKS on and off the air (Tr. 865, 868), a result that disappointed Mrs. Hillis (Tr. 865). The observed differences in signal with KOKS on and off the air were a change from a TASO 5 and TASO 6 to a TASO 4 and TASO

5 on channels 6 and 8 on one TV and a TASO 6 and TASO 5 to a TASO 5 and a TASO 3 on channels 6 and 12 on the other TV (MMB Ex. 1, p. 31). Mr. Ramage again did not observe the distinctive herringbone pattern that is indicative of blanketing interference at the residence (Tr. 868).

75. At the Diel residence Mr. Ramage noted that the station had not restored reception despite the fact that the observed reception on three different TV's showed that only one channel, channel 15, was affected by KOKS being on the air, and that only the slight difference between a TASO 5 and a TASO 4 picture (MMB Ex. 1, p. 33; 871). No herringbone lines of blanketing interference were observed at this home either (Tr. 871). Both of the antennas on the Hillis system were noted as directional, and that they were oriented toward channels 6 and 12 (MMB Ex. 1, p. 31) For Mrs. Wynn Mr. Ramage noted that KOKS installed filters on two television sets (MMB Ex. 1, p. 35), and that the installation of a notch filter by KOKS "improved but not completely restored quality of television reception" and that the filter stopped working after a few weeks. Mr. Ramage's report on Mrs. Piper noted that the improvement in her reception was the result of the purchase and installation of coax cable and two Archer FM traps (MMB Ex. 1, p. 37). Her reception was unaffected by the operation of the KOKS transmitter. At Mrs. Libla's home Mr. Ramage noted that there was no apparent change in picture quality when KOKS was transmitting and that the person had installed a satellite dish (MMB Ex. 1, p. 39). If there was any change in picture quality with the KOKS

transmitter operating, it was only on channel 6. No herringbone pattern indicative of blanketing interference was observed on the Libla set (Tr. 876).

76. While Mr. Ramage stated that KOKS did not restore reception for the Kearbys, he based this solely on what the Kearbys told him (Tr. 874) because the Kearbys' reception was the same whether KOKS was operating or not (MMB Ex. 1, p. 41; Tr. 871), and not based on any observation. Mr. Ramage did not see any herringbone patterns in the Kearby set (Tr. 876) or the Gray set (Tr. 878). The Freemans have a booster on their set which improved reception when KOKS went off the air, and on their TV which is not assisted by a booster the only difference in reception when KOKS is off the air is that channel 15 goes from a TASO 4 to a TASO 3 (MMB Ex. 1, p. 45). Their booster had a twin lead which had broken off of the antenna wire, which, while it had nothing to do with any interference, explained the poor reception (Tr. 875). While Mr. Ramage noted that Calvary had only installed one filter on one set in his report, he notes that KOKS installed two filters, one on each set, at the Ellis home (MMB Ex. 1, p. 47). Mrs. Ellis had installed a booster antenna, but the reception on only one channel on both television sets, channel 8, went from a TASO 4 to a TASO 3, improved with KOKS off the air (MMB Ex. 1, p. 47). Mr. Ramage also noted that the Ellis' had purchased their own filter and paid Mr. Lampe to install a booster. Mr. Ramage noted that TV reception improved when KOKS went off the air in Mrs. Christian's home, but also that Mrs. Christian had remodelled since KOKS visited her home

(MMB Ex. 1, p. 49). Reception on the television set on which KOKS filters were installed showed that there was no difference in reception with KOKS on or off the air. Ramage noted that Mrs. Christian had installed a booster after her complaint was filed (MMB Ex. 1, p. 49). However, Mrs. Stewart testified that Mrs. Christian called very soon after the station went on the air and had a booster and a preamplifier then (Ex. 3, p. 24; also Ex. 17, p. 32). At the Garrison home Ramage noted that his picture improved on channel 6 when KOKS was off the air, but all other channels were unaffected by KOKS transmissions (MMB Ex. 1, p. 51). Mr. Garrison was also unaware of a filter that was installed on his TV set. Mr. Crutchfield had a booster installed on his system running all his TV sets (MMB Ex. 1, p. 53).

III. CONCLUSIONS OF LAW³/

A. The Ineptness Issue⁴/

77. The HDO grounds the designation of the "Ineptness Issue" on the following factual predicates based on Mr. Ramage's field report:

³/Factual statements will be supported by citations to the paragraph in the findings where the assertion is supported by the record using the form "fdgs. ¶ ____." As with the findings, to limit the number of redundant citations to the record a citation will be made at the end of a sentence only when the source for the material is different from that specified in the previous citation.

⁴/For ease of reference, Calvary will here refer to designated issue number 3, "[t]o determine whether the licensee's management and operation of the station KOKS was so negligent, careless, or inept ..." as "the Ineptness Issue."